

REMARKS

Summary Of The Office Action & Formalities

Status of Claims

Claims 1-16 are all the claims pending in the application. By this Amendment, Applicants are amending claims 1, 7, and 9-15, canceling claim 4, and adding new claims 17-20. No new matter is added.

Claim to Foreign Priority

Applicants thank the Examiner for acknowledging the claim to foreign priority and for confirming that the certified copy of the priority document was received.

Information Disclosure Statement

Applicants also thank the Examiner for initialing the references listed on form PTO/SB/08 submitted with the Information Disclosure Statement filed on September 20, 2005.

Drawings

Applicants thank the Examiner for acknowledging and accepting the drawings filed on September 20, 2005.

Claim Objections

Claim 10 is objected to at page 2 of the Office Action because quotations are used for the term airless. Applicant is amending the claim to overcome this objection.

Claim Rejections - § 112

Claims 7, 9, and 15 are rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for the reasons stated on page 2 of the office action. Applicant is amending claims 7, 9 and 15 to address the rejection.

Art Rejections

1. Claims 1-5 and 7-9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Rogers (US 3,141,580).
2. Claims 1 and 6 are rejected under 35 U.S.C. § 102(b) as being anticipated by Lee (US 5,601,212).
3. Claims 1, 2, 10-14 and 16 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kay et al. (US 5,169,039, "Kay").
4. Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kay et al. (US 5,169,039, "Kay") in view of Cabarroque et al. (US 6,983,865, "Cabarroque").

Claim Rejections - 35 U.S.C. § 102

1. Claims 1-5 and 7-9 In View Of Rogers (US 3,141,580).

In rejecting claims 1-5 and 7-9 in view of Rogers (US 3,141,580), the grounds of rejection state:

In Reference to Claim 1

A fluid dispenser comprising: a fluid reservoir (container 10) serving to contain fluid; and a dispenser head (dispensing portion 13) mounted on the reservoir to take fluid from the reservoir, said head defining a dispensing chamber (Figure 1) communicating with the reservoir via an inlet valve (valve opening 23) and communicating with the outside at a dispensing orifice (forward opening 15) via an outlet valve (nipple 14); said dispenser being characterized in that the chamber comprises at least one elastically deformable actuating wall (sides, col. 2, line 34; col. 2, II. 46-48) that is depressed in order to generate a pressure inside the chamber that is high enough to close the inlet valve and to open the outlet valve (col. 2, II. 29-42).

* * *

In Reference to Claim 4

A dispenser according to claim 1 (see rejection of claim 1 above), in which the outlet valve forms the dispensing orifice from which the dispensed fluid can be collected (Figure 1).

(Office action at pages

As an initial note, Applicants amended independent claim 1 to incorporate the features of claim 4.

Rogers does not disclose at least, “wherein the outlet valve forms the dispensing orifice from which the dispensed fluid can be collected.” The Examiner indicates that Figure 1 of Rogers discloses such features. Figure 1 of Rogers, however, shows that the dispensing orifice is formed separately from the outlet valve. In Rogers, the dispensing orifice is formed by a cut-off 15 of the nipple 14. (Rogers, col. 2, lines 5-7.) The outlet valve in Rogers is formed by the forward end 17 of the portion 16 contacting the base of the nipple. (Rogers, Figure 1.) Thus, the outlet valve does not form the dispenser orifice in the device disclosed in Rogers.

In view of the above, Rogers does not disclose all of the features of independent claim 1. Additionally, claims 2-5 are allowable at least by virtue of their dependency from independent claim 1.

Regarding claim 7, Applicants are amending claim 7 to be written in independent form. In rejecting claim 7, the grounds of rejection state:

A dispenser according to claim 1 (see rejection of claim 1 above), in which the head further has a tube (cylindrical housing 19) having a fastening end (col. 2, II. 20-21) and an opposite end forming an outlet valve seat (forward end 17), the sleeve extending around the tube (Figure 1).

Office Action at page 4.

Rogers does not disclose “wherein the head (2) further comprises a rigid tube (22) having a fastening end (277) and an opposite end (222) forming an outlet valve seat.” First, the housing 19 in Rogers is flexible and not rigid. (*See* Rogers, Figure 2.) Furthermore, the housing 19 does not have a fastening end since it is not fastened to the wall 22. Rather, the housing 19 only abuts the wall 22 and the housing is secured in place by closure member 20. Rogers states: “[i]n assembly the housing 19 is positioned inside of the dispensing portion 13 as shown in FIG. 1 and then a closure member 20 provided with threads 21 interlocking with integral threads on the interior portion of the member 12 as illustrated in FIG. 1, is screwed into position.” (Rogers, col. 2, lines 15-19.) Thus, Rogers does not disclose a rigid tube having a fastening end.

Furthermore, the housing 19 does not have an opposite end forming an outlet valve seat. In Rogers, the outlet valve seat is formed by the forward end 17 of the solid cylindrical portion 16 extending coaxially inside of the housing. As such, Rogers does not disclose all of the features of independent claim 7.

2. Claims 1 And 6 In View Of Lee (US 5,601,212).

3. Claims 1, 2, 10-14 And 16 In View Of Kay et al. (US 5,169,039, “Kay”).

As noted above, Applicants are amending independent claim 1 to incorporate the features of dependent claim 4. As such, the rejections under Lee and Kay are now moot.

Claim Rejections - 35 U.S.C. § 103

4. Claim 15 Over Kay et al. (US 5,169,039, "Kay") in view of Cabarroque et al. (US 6,983,865, "Cabarroque").

Claim 15 is allowable at least by virtue of its dependency from independent claim 7.

New Claims

For additional claim coverage merited by the scope of the invention, Applicant is adding new claims 17-20. Independent claim 17 is allowable because the cited prior art does not disclose at least, "a rigid tube mounted on the reservoir, the tube comprising an inlet valve disposed inside of the tube for selectively drawing fluid from the reservoir."

Claims 18-20 are allowable at least by virtue of their dependency from independent claim 17.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Raja N. Saliba
Registration No. 43,078

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: May 4, 2009